

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
WESTERN DIVISION

BERKLEY NATIONAL INSURANCE  
COMPANY,

Plaintiff,

V.

XTO ENERGY, INC.,

Defendant, Counter-Plaintiff and  
Third-Party Plaintiff,

V.

BERKLEY NATIONAL INSURANCE  
COMPANY,

## Counter-Defendant

-AND-

COMMERCE AND INDUSTRY  
INSURANCE COMPANY, TORUS  
NATIONAL INSURANCE COMPANY  
n/k/a STARSTONE NATIONAL  
INSURANCE COMPANY, and SENECA  
SPECIALTY INSURANCE COMPANY

**BERKLEY NATIONAL INSURANCE COMPANY’S UNOPPOSED  
MOTION FOR EXTENSION TO REPLY TO XTO ENERGY, INC.’S  
RESPONSE TO BERKLEY’S MOTION FOR SUMMARY JUDGMENT**

Plaintiff/Counter-Defendant Berkley National Insurance Company (“Berkley”) moves to extend its deadline to reply to XTO Energy, Inc.’s Response to Berkley’s Motion for Summary Judgment [Doc. 109] and would respectfully show the Court as follows:

1. On April 24, 2020, Defendant/Counter-Plaintiff XTO Energy, Inc. (“XTO”) filed its Response to Berkley’s Motion for Summary Judgment. [Doc. 109] Berkley’s deadline to reply is May 22, 2020. [Doc. 96]

2. To allow sufficient time for Berkley to reply to XTO's response to Berkley's summary judgment motion—considering other briefing deadlines as well as the complications imposed by the ongoing pandemic—Berkley requests an extension of two weeks, making June 5, 2020 its deadline to reply to Doc. 109.

3. Counsel for XTO does not oppose the relief requested in this Motion. Counsel for Berkley was similarly unopposed to XTO's requested extensions to respond to Berkley's summary judgment motion.

4. This request is not sought for the purpose of delay, but only so that justice may be served.

WHEREFORE, PREMISES CONSIDERED, Plaintiff/Counter-Defendant Berkley National Insurance Company respectfully requests that this Court grant the foregoing Motion and enter an order (1) extending Berkley's deadline to reply to XTO's response to Berkley's summary judgment motion to June 5, 2020; and (2) granting Berkley any and all other relief to which it may be entitled.

Respectfully submitted,

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INSURANCE COMPANY**

**CERTIFICATE OF CONFERENCE**

On May 17, 2020, Counsel for Berkley National Insurance Company conferred with counsel for XTO Energy, Inc. regarding the relief sought in this motion. XTO is unopposed to the relief sought in Berkley's Motion.

/s/ Elizabeth H. Rivers  
Elizabeth H. Rivers

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was sent to all parties of record pursuant to the ECF guidelines and the Federal Rules of Civil Procedure on this 18th day of May 2020.

/s/ Elizabeth H. Rivers  
Elizabeth H. Rivers